

1 HON. JAMAL N. WHITEHEAD
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

IN RE VALVE ANTITRUST
LITIGATION

This Filing Relates to:
CONSUMER PLAINTIFFS

No. 2:21-cv-00563-JNW

**UNOPPOSED MOTION TO
VOLUNTARILY DISMISS WITHOUT
PREJUDICE**

NOTE ON MOTION CALENDAR:
August 15, 2025

VOLUNTARY MOTION TO DISMISS WITHOUT PREJUDICE

I. INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 41(a)(2), Consumer Plaintiffs Susann Davis, Hope Marchionda, and Everett Stephens, by and through counsel, hereby move to voluntarily dismiss their claims against Defendant Valve Corporation (“Valve”) without prejudice. Ms. Davis, Ms. Marchionda, and Mr. Stephens respectfully request to withdraw from this case without prejudice to their rights as absent putative class members. Granting this request will not prejudice Valve and will not delay or hinder this action. Counsel for these plaintiffs have conferred with Valve’s counsel, and Valve does not oppose the relief sought in this motion.

UNOPPOSED MOT. FOR VOLUNTARY
DISMISSAL WITHOUT PREJUDICE - 1
Case No. 2:21-cv-00563-JNW

VORYS, SATER, SEYMOUR AND PEASE LLP
52 East Gay Street
Columbus, OH 43215
Tel: (614) 464-6400

1 **II. FACTUAL BACKGROUND**

2 Ms. Davis, Ms. Marchionda, and Mr. Stephens, along with Plaintiffs Sean Colvin and Ryan
 3 Lally filed the first antitrust class action against Valve Corporation in the Central District of
 4 California in January 2021. *Sean Colvin, et al. v. Valve Corp., et al.* (Case No. 2:21-cv-00801
 5 C.D. Cal.). Venue in that case was then transferred to the Western District of Washington and a
 6 Consolidated Amended Class Action Complaint, which included Consumer Plaintiffs Ms. Davis,
 7 Ms. Marchionda, Mr. Stephens, Mr. Lally, and Mr. Colvin, was filed in W.D. Wash. Case No.
 8 2:21-CV-00563. ECF 34. On October 25, 2021, this Court stayed that case pending arbitration
 9 after holding that the plaintiffs agreed to a mandatory arbitration clause in Valve’s Steam
 10 Subscriber Agreement (“SSA”). ECF 66. On October 4, 2024, Ms. Davis, Ms. Marchionda, and
 11 Mr. Stephens (along with Mr. Colvin) moved to lift the stay because Valve revised its SSA to no
 12 longer require arbitration. ECF 370. The motion to lift the stay was not made on Ryan Lally’s
 13 behalf because he commenced and is currently pursuing arbitration of his claims against Valve in
 14 accordance with this Court’s October 2021 Order. *Id.* at 1.

15 In August and October 2024, three lawsuits were filed by other law firms on behalf of
 16 consumers against Valve alleging similar claims to those brought in this case. *See Elliott, et al. v.*
 17 *Valve Corp.* (Case No. 2:24-cv-01218-JNW) ECF 1 (filed Aug. 9, 2024); *Hepler, et al. v. Valve*
 18 *Corp.* (Case No. 2:24-cv-01735-JNW) ECF 1 (filed Oct. 23, 2024); *Drake, et al. v. Valve Corp.*
 19 (Case No. 2:24-cv-01743-JNW) ECF 1 (filed Oct. 24, 2024). Counsel in all four lawsuits moved
 20 to be appointed interim lead class counsel for the putative consumer class, and, on May 2, 2025,
 21 this Court selected Cohen Milstein Sellers & Toll PLLC (“Cohen Milstein”) for that role. ECF
 22 407; ECF 409; ECF 411; ECF 412; ECF 441. On June 27, 2025, Cohen Milstein filed an amended
 23 class action complaint against Valve on behalf of three class representatives, namely, Connor
 24 Hepler, Aaron Lancaster, and Sean Colvin,¹ as well as the putative class. ECF 473. While Ms.

25
 26¹ As noted above, Mr. Colvin had been a named Plaintiff in the June 11, 2021 Consolidated
 Amended Complaint in this case. After being appointed interim lead counsel, on June 27, 2025,
 Cohen Milstein filed a Stipulated Motion for Withdrawal and Substitution of Counsel in this action
 UNOPPOSED MOT. FOR VOLUNTARY
 DISMISSAL WITHOUT PREJUDICE - 2
 Case No. 2:21-cv-00563-JNW

1 Davis, Ms. Marchionda, and Mr. Stephens want to remain as putative class members, they no
 2 longer wish to be class representatives in this action due to the time and expense involved in that
 3 role. Therefore, they move to voluntarily dismiss their claims against Valve Corporation without
 4 prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2).

5 **III. LAW AND ARGUMENT**

6 “Rule 41(a)(2) permits a plaintiff, with the approval of the court, to dismiss an action
 7 without prejudice at any time.” *Stevedoring Servs. of Am. v. Armilla Int’l B.V.*, 889 F.2d 919, 921
 8 (9th Cir. 1989); Fed. R. Civ. P. 41(a)(2). Rule 41(a)(2) is meant to allow a plaintiff “to dismiss an
 9 action without prejudice so long as the defendant will not be prejudiced or unfairly affected by
 10 dismissal.” *Stevedoring Servs.*, 889 F.2d at 921 (internal citations omitted). Thus, “[a] district
 11 court should grant a motion for voluntary dismissal under Rule 41(a)(2) unless a defendant can
 12 show that it will suffer some plain legal prejudice as a result.” *Smith v. Lenches*, 263 F.3d 972,
 13 975 (9th Cir. 2001); *see also Bennett v. Dhaliwal*, 721 F. App’x 577, 578 (9th Cir. 2017). Legal
 14 prejudice means “prejudice to some legal interest, some legal claim, some legal argument.”
 15 *Westlands Water Dist. v. United States*, 100 F.3d 94, 97 (9th Cir. 1996) (listing examples of legal
 16 prejudice, including “loss of a federal forum, or the right to a jury trial, or a statute-of-limitations
 17 defense” and leaving “the remaining parties unable to conduct sufficient discovery”).

18 Ms. Davis, Ms. Marchionda, and Mr. Everett no longer wish to be plaintiffs and potentially
 19 serve as class representatives in the consumer antitrust litigation against Valve. Dismissing their
 20 claims without prejudice will not cause Valve to suffer any legal prejudice. Three other putative
 21 class representatives will remain in the consumer litigation, and this case will continue to move
 22 forward as planned. Cohen Milstein will pursue antitrust claims against Valve on behalf of Connor
 23 Hepler, Aaron Lancaster, Sean Colvin, and the putative consumer class. Therefore, the dismissal
 24 will not cause Valve to lose access to a federal forum, jury trial, or statute-of-limitations defense,

25 _____
 26 with respect to Mr. Colvin (ECF 472), which the Court granted on July 14, 2025, substituting
 Cohen Milstein for the undersigned counsel in this motion. (ECF 480).

1 will not interfere with Valve's ability to conduct discovery, and will not subject Valve to the risk
 2 of additional litigation. The resources that Valve has invested into this litigation will not be
 3 rendered futile by dismissing Ms. Davis's, Ms. Marchionda's, and Mr. Everett's claims. Granting
 4 this motion to dismiss will not prejudice Valve's legal interest, legal claims, or legal arguments,
 5 but it will save Ms. Davis, Ms. Marchionda, and Mr. Everett time and expense. Therefore, this
 6 Court should grant the Voluntary Motion to Dismiss Without Prejudice and allow Ms. Davis, Ms.
 7 Marchionda, and Mr. Everett to withdraw from their positions as class representatives and remain
 8 in this action as absent putative class members.

9 **IV. CONCLUSION**

10 For the foregoing reasons, Susann Davis, Hope Marchionda, and Everett Stephens
 11 respectfully request that this Court grant their voluntary motion to dismiss without prejudice
 12 pursuant to Federal Rule of Civil Procedure 41(a)(2).

13 DATED: August 15, 2025.

14
15 Respectfully submitted,

16 /s/ H. Troy Romero
 17 H. Troy Romero, WSBA #19044
 ROMERO PARK PS
 1019 W. James St., Ste. 102
 Kent, Washington 98032
 Tel: (425) 450-5000
 tromero@romeropark.com

18
 19 Kenneth J. Rubin (*pro hac vice*)
 20 Timothy B. McGranor (*pro hac vice*)
 21 Douglas R. Matthews (*pro hac vice*)
 Kara M. Mundy (*pro hac vice*)
 22 VORYS, SATER, SEYMOUR AND PEASE LLP
 52 East Gay Street
 Columbus, OH 43215
 Telephone: (614) 464-6400
 Fax: (614) 464-6350
 kjrubin@vorys.com
 tbmcgranor@vorys.com
 drmatthews@vorys.com
 kmmundy@vorys.com

1 Thomas N. McCormick (*pro hac vice*)
2 VORYS, SATER, SEYMOUR AND PEASE LLP
3 4675 MacArthur Court
4 Suite 700
5 Newport Beach, CA 92660
6 Telephone/Fax: (949) 526-7903
7 Email: tnmccormick@vorys.com

8 Alicia Cobb, WSBA #48685
9 QUINN EMANUEL URQUHART &
10 SULLIVAN, LLP
11 1109 First Avenue, Suite 210
12 Seattle, Washington 98101
13 Phone (206) 905 7000
14 Fax (206) 905 7100
15 aliciacobb@quinnmanuel.com

16 *Attorneys for Susann Davis, Hope Marchionda,*
17 *and Everett Stephens*

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all CM/ECF recipients.

DATED: August 15, 2025.

/s/ H. Troy Romero
H. Troy Romero, WSBA #19044

1
LCR 7 CERTIFICATION

2 I certify that this memorandum contains 1,025 words, in compliance with the Local Civil
3 Rules.

4 DATED: August 15, 2025.

5 */s/ H. Troy Romero*
6 H. Troy Romero, WSBA #19044

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1 HON. JAMAL N. WHITEHEAD
2
3
4
5
6

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7
8 IN RE VALVE ANTITRUST
9 LITIGATION
10
11

No. 2:21-cv-00563-JNW

12 [PROPOSED] ORDER GRANTING
13 UNOPPOSED MOTION TO
14 VOLUNTARILY DISMISS WITHOUT
15 PREJUDICE

This Filing Relates to:
CONSUMER PLAINTIFFS

Now before this Court is the Unopposed Motion to Voluntarily Dismiss Without Prejudice of Susann Davis, Hope Marchionda, and Everett Stephens in *In re Valve Antitrust Litigation* (Case No. 2:21-cv-00563-JNW). Having carefully reviewed the motion, the Court **GRANTS** the Motion. The claims of Susann Davis, Hope Marchionda, and Everett Stephens against Defendant Valve Corporation are hereby dismissed without prejudice. Susann Davis, Hope Marchionda, and Everett Stephens are no longer class representatives for the putative consumer class and may remain in this action as absent class members.

IT IS SO ORDERED.

Dated this _____ day of _____, 2025.

Hon. Jamal N. Whitehead
UNITED STATES DISTRICT JUDGE

1 Presented by:

2 /s/ H. Troy Romero

3 ROMERO PARK PS
 4 H. Troy Romero, WSBA #19044
 5 1019 W. James St., Ste. 102
 6 Kent, Washington 98032
 Tel: (425) 450-5000
 tromero@romeropark.com

7 Kenneth J. Rubin (*pro hac vice*)
 8 Timothy B. McGranor (*pro hac vice*)
 Douglas R. Matthews (*pro hac vice*)
 Kara M. Mundy (*pro hac vice*)
 9 VORYS, SATER, SEYMOUR AND PEASE LLP
 10 52 East Gay Street
 Columbus, OH 43215
 11 Telephone: (614) 464-6400
 Fax: (614) 464-6350
 12 Email: kjrubin@vorys.com
 tbmcgranor@vorys.com
 drmatthews@vorys.com
 13 kmmundy@vorys.com

15 Thomas N. McCormick (*pro hac vice*)
 16 VORYS, SATER, SEYMOUR AND PEASE LLP
 17 4675 MacArthur Court
 Suite 700
 18 Newport Beach, CA 92660
 Telephone/Fax: (949) 526-7903
 Email: tnmcormick@vorys.com

19 Alicia Cobb, WSBA #48685
 20 QUINN EMANUEL URQUHART &
 SULLIVAN, LLP
 21 1109 First Avenue, Suite 210
 Seattle, Washington 98101
 Phone (206) 905 7000
 23 Fax (206) 905 7100
 aliciacobb@quinnemanuel.com

25 *Attorneys for Susann Davis, Hope
 Marchionda, and Everett Stephens*